

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JEFFERY NATHINIEL PAGAN,
Plaintiff,

v.

COUNTY OF CHESTER, *et al.*,
Defendants.

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CIVIL ACTION NO. 23-CV-3835

ORDER

AND NOW, this 3rd day of November, 2023, upon consideration of Plaintiff Jeffery Nathinial Pagan's Motion to Proceed *In Forma Pauperis* (ECF No. 1), Prisoner Trust Fund Account Statement (ECF No. 3), and *pro se* Complaint (ECF No. 2), it is

ORDERED that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Jeffery Nathiniel Pagan, #0075887, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of Chester County Prison or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Pagan's inmate account; or (b) the average monthly balance in Pagan's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Pagan's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Pagan's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Warden of Chester County Prison.

4. The Complaint is **DEEMED** filed.

5. For the reasons stated in the Court's Memorandum, the following claims are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii): (1) all official capacity and municipal liability claims against the County of Chester, Warden Howard Holland, Deputy Warden Ocie Miller, Major Morgan Taylor, Sergeant Gunthrie, and Sergeant Johnson; and (2) all supervisory liability claims against Warden Howard Holland, Deputy Warden Ocie Miller, Major Morgan Taylor, and Sergeant Johnson.

6. The Clerk of Court is **DIRECTED** to send Pagan a blank copy of the Court's standard form complaint for prisoners to use to file a complaint bearing the above civil action number.¹

7. Pagan is given thirty (30) days to file an amended complaint in the event he can allege additional facts to state a plausible claim with respect to the claims that have been dismissed without prejudice. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, shall state the basis for Pagan's claims against each defendant, and shall bear the title "Amended Complaint" and the case number 23-3835. **If Pagan files an amended complaint, his amended complaint must be a complete document that includes all of the bases for Pagan's claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims. Claims that are not included in the amended complaint will not be considered part of this**

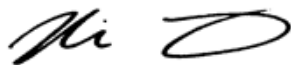
¹ This form is available on the Court's website at <http://www.paed.uscourts.gov/documents/forms/frmc1983f.pdf>.

case. When drafting his amended complaint, Pagan should be mindful of the Court's reasons for dismissing his claims as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

8. If Pagan does not file an amended complaint, the Court will direct service of his initial Complaint on Defendant Sergeant Gunthrie **only**. Pagan may also notify the Court that he seeks to proceed on these claims rather than file an amended complaint. If he files such a notice, Pagan is reminded to include the case number for this case, 23-3835.

9. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** to the date the Court issues summonses in this case if summonses are issued.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Mi D', is written above a horizontal line.

MIA R. PEREZ, J.